

Inner City Press

By E-mail to OetkenNYSDChambers@nysd.uscourts.gov

Hon. J. Paul Oetken, United States District Judge

Southern District of New York, 40 Foley Square, New York, NY 10007

Re: US v. Correia, 19-cr-725-3 (JPO) - Motion for Leave To Be Heard / Press Request To

Dear Judge Oetken:

On behalf of Inner City Press and in my personal capacity, I have been covering the above-captioned case since it was filed. This concerns documents filed under (requested) seal in the case, 19-cr-725.

Defense counsel have "request[ed] that this motion be accepted ex parte and filed under seal." This is opposition.

Formally, PLEASE TAKE NOTICE that Inner City Press and its undersigned reporter, in personal capacity, will move this Court before Honorable J. Paul Oetken, U.S. District Judge for the Southern District of New York, at a date and time directed by the Court, for entry of an order granting permission to the heard on/and the unsealing of documents filed and/or submitted in 19-cr-725 (JPO), pursuant to Docket No. 122 in that case and the Court's inherent power, and such other and further relief as the Court deem just and proper.

As the Court is aware, the public and the press have a presumptive First Amendment and common law right of access to criminal proceedings and records. See *Press Enterprise Co. v. Superior Court of California*, 464 U.S. 501, 508 (1984). The presumption of openness can only be overcome if "specific, on the record findings are made demonstrating that closure is essential to preserve higher values and is narrowly tailored to serve that interest." *Press-Enterprise Co. v. Superior Court*, 478 U.S. 1, 13-14 (1986)

Non-parties such as Inner City Press and myself have standing to intervene in criminal proceedings to assert the public's right of access. *United States v. Aref*, 533 F.3d 72, 81 (2d Cir. 2008).

Recently in SDNY Magistrates Court financial information about defendants has been read out in the public record, including for the appointment of Federal

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Defenders. See, e.g., *US v. Castro, et al.*, 20-mj-8994 (Freeman) & <http://www.innercitypress.com/sdny270fifthfreemanmassicp082420.html>

Those and other defendants whose financial information have been disclosed including in Magistrates Court this summer had the same arguments as made by counsel to defendant Correia, that the information might be used against them. And yet the other defendants' information was disclosed.

As stated in *US v. Harris*, 707 F.2d at 663, facts should be determined through adversarial proceedings.

While beyond the scope of this letter, the Court could limit the use in this case by the prosecution of the unsealed information, without unnecessarily overriding the presumption of public access.

Here, the requested sealing(s) and withholdings go entirety go beyond those requested even in the CIA trial before Judge Crotty, *US v. Schulte*, 17 Cr. 548.

In that case, Inner City Press vindicated the public's right to know, in the docket, see https://twitter.com/big_cases/status/1232758559408087041 and <https://www.usatoday.com/documents/6786787-Docket-Annotation>

Inner City Press recently got even more sensitive filings unsealed in a North Korea sanctions case before Judge Castel, *US v. Griffith*, 20-cr-15 (PKC), Docket No. 33 (LETTER by EMAIL as to Virgil Griffith addressed to Judge P. Kevin Castel from Matthew Russell Lee, Inner City Press, dated 5/18/2020, re: Press Access to documents in *US v. Griffith*, 20-cr-15), 40 (order to unseal) and 41 unsealed filings). See also Inner City Press' May 9, 2020, filing to this Court for openness in *US v. Randall*, 19-cr-131, No. 343.

The U.S. Supreme Court has recognized that reporting by the news media allows members of the public to monitor the criminal justice system without attending proceedings in person. *Richmond Newspapers, Inc. v Virginia*, 448 U.S. at 572-73 (1980). By attending and reporting on court proceedings, members of the press "function[] as surrogates for the public." *Id.* at 573.

Inner City Press has covered the case(s) against Mr. Correia (and Mr. Parnas, et al.) for some time. See, e.g., October 2019, <http://www.innercitypress.com/sdny1correia101619.html>

In another pending case, *US v. Edwards*, 19-cr-64 (GHW), the Office had initially said that documents submitted by the defendant (described as the leaker of Paul

Manafort's Suspicious Activity Reports) should be put in the public docket. Then, while Inner City Press is pursuing that, the US Attorney's Office has stopped pushing.

See also, https://twitter.com/big_cases/status/1299446350002769922

<https://www.usatoday.com/documents/7047918-Order-on-Letter-Motion/>

The documents at issue here should not be sealed and should be made available.

Please confirm receipt & docket this timely responsive filing. Thank you.

Respectfully submitted,

/s/

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